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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		10013653-1	
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		09/853658	May 10 2001
		First Named Inventor	
		Dirk M. Beyer	
		Art Unit	Examiner
		3623	Michael C. Heck
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/36)		Philip S. Lyren	
		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record.		281-514-8236	
Registration number <u>40,709</u>		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.		Jan 25 2006	
Registration number if acting under 37 CFR 1.34 _____		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of _____ forms are submitted.			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Dirk M. Beyer, et al.

Examiner: Michael C. Heck

Serial No.: 09/853,658

Group Art Unit: 3623

Filed: May 10, 2001

Docket No.: 10013653-1

Title: Global Campaign Optimization with Promotion-Specific Customer Segmentation**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants file this Pre-Appeal Brief in response to the Final Office Action dated October 25, 2005. All claims (1-19) are rejected under 35 U.S.C. §103(a) as being unpatentable over Richards in view of USPN 6,622,126 (McArdle). Applicants respectfully traverse.

Independent Claims 1, 7, and 13

Independent claims 1, 7, and 13 recite numerous recitations that are not taught or suggested in Richard in view of McArdle. Applicants select claim 1 as an example. As a precursor to the arguments, Applicants provide an overview of McArdle and claim 1.

Overview of McArdle

As discussed in the background of McArdle, businesses track the behavior of purchasers or customers using a technique called "segmentation" (i.e., classifying customers into groups with common characteristics: 1: 14-18). The problem is, however, that "[t]racking how people change segments over their lives is an extremely difficult proposition" (1: 38-40). McArdle solves this problem with systems and methods that "track migration of individuals from one customer segment to another" (1: 54-57). In other words, McArdle tracks the movement over long periods of time of individuals as the individuals migrate from one customer segment to another customer segment (1: 60 *et seq.*).

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Overview of Claim 1

Claim 1 recites a method that includes two steps for segmenting customers by promotion. First, customers are divided into a plurality of segments for each of plural promotions. Each segments includes the customers that have similar responses to the respective promotion. Second, the customers are further separated into "meta-segments." The customers in each meta-segment share a same response to all of the plural promotions. The meta-segments are then used to design a promotional campaign.

Argument

Claim 1 recites the following recitations:

separating said plurality of customers into a plurality of meta-segments, wherein each meta-segment in said plurality of meta-segments represents a second respective group of customers sharing a same response to all promotions in said plurality of promotions; and
using the plurality of meta-segments to design a promotional campaign.

The Examiner admits that Richards does not teach these recitations (see FOA at p. 4). Applicants agree with this admission. Thus, the issue is: Does McArdle teach or suggest all of these recitations? McArdle does not.

McArdle teaches systems and methods that "track migration of individuals from one customer segment to another" (1: 54-57). In other words, McArdle tracks the movement over long periods of time of individuals as the individuals migrate from one customer segment to another customer segment. By contrast, claim 1 is directed to separating customers based on their response to promotions, not tracking customer migrations. According to claim 1, customers are given promotions and then separated based on their responses to these promotions. Again, McArdle is not concerned with presenting customers with promotions and then separating the customers based on their response to the specific promotions. McArdle does not separate customers based on responses to promotions. Instead, McArdle is concerned with tracking people as they migrate from one segment to another segment.

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For at least these reasons, a prima facie case of obviousness does not exist, and claim 1 is allowable over Richards and McArdle.

Further, claim 1 recites a method that includes two steps for segmenting customers by promotion. In the second step, the customers are separated into plural meta-segments. As specifically recited in claim 1, the customers in each meta-segment share "a same response to all promotions in said plurality of promotions" (emphasis added). Nowhere does McArdle teach or suggest this recitation. The Examiner argues that FIG. 2 and the accompanying text in McArdle teach this recitation. Applicants respectfully disagree.

FIG. 2 in McArdle shows an exemplary segmentation migration for a retail department store. The left side of the display shows five customer segments (i.e., Inactive Shoppers 202, Women's Clothes 204, etc.). The right side of the display shows how customers from Inactive Shoppers 202 migrated and shopped at various department stores. Notice that claim 1 states that customers in each meta-segment share "a same response to all promotions." For various reasons, FIG. 2 does not teach or suggest this recitation.

First, FIG. 2 has nothing to do with customers sharing a same response to promotions. McArdle is not concerned with promoting customers, but rather tracking customer movements over long periods of time. McArdle never mention or suggests that customers are targeted with a specific promotion and then tracked to see their response to the promotion. In other words, McArdle never suggests that customers in the source segments (i.e., Inactive Shoppers 202, Women's Clothes 204, etc.) are given a specific promotion and then tracked to see how they migrated in response to the promotion.

For at least these reasons, a prima facie case of obviousness does not exist, and claim 1 is allowable over Richards and McArdle.

Second, FIG. 2 has nothing to do with customers sharing a same response to all promotions. In other words, claim 1 recites that customer in each meta-segment share a same response to all promotions in a plurality of promotions. FIG. 2 in McArdle merely shows how Inactive Shoppers in May sales changed to different departments for June sales. McArdle does not suggest whatsoever that all of the customers in Inactive Shoppers for June sales shared a same response to all promotions. Again, McArdle does not mention response to promotions, let alone grouping customers with regard to sharing responses to all promotions.

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For at least these reasons, a prima facie case of obviousness does not exist, and claim 1 is allowable over Richards and McArdle.

Applicants respectfully ask that each term in claim 1 be given consideration in determining patentability. Again, claim 1 recites that customers in each meta-segment "share a same response to all promotions." The Office Action has not cited any location whatsoever in McArdle suggesting that the source or target segments in FIG. 2 (i.e., Inactive Shoppers, Women's Clothes, etc.) share same response to all promotions. Again, the source or target segments in McArdle are not tracked with respect to specific promotions. Even assuming *arguendo* that the source or target segments were tracked with respect to promotions (which they are not), McArdle still fails to teach that the target segments in FIG. 2 "share a same response to all promotions."

For at least these reasons, a prima facie case of obviousness does not exist, and Applicant requests withdrawal of the final rejection.

Respectfully submitted,



Philip S. Lyren

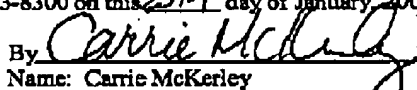
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CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 571-273-8300 on this 25th day of January, 2006.

By



Name: Carrie McKerley